

**LOCAL RULE 9013**  
**Motion Practice**

(a) *Applicability* - This Rule applies to relief requested pursuant to FED. R. BANKR. P. 9013 and 9014, regardless of the style or title of such request.

(b) *Ex Parte Relief* - If the requested relief may be granted without a hearing and without prior notice to interested parties, the movant shall file an original and one copy of the motion and proposed order with a request that the order be signed.

(c) *Notice with Opportunity to Object* - A party seeking relief without an actual hearing shall follow the procedures set forth herein unless the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Local Bankruptcy Rules or unless the Court otherwise directs.

(1) The following documents shall be filed pursuant to this subsection:

(A) A notice to the debtor and all other parties upon whom service is required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Local Bankruptcy Rules or as otherwise directed by the Court stating that the party being served with the motion has 15 days (20 days for matters set forth in FED. R. BANKR. P. 2002(a) and 30 days for objections to claims) from the date of service to file and serve a response which may include a request for a hearing. In either event, the response shall set forth with specificity the grounds for objection and/or the reasons a hearing is being requested;

(B) A copy of the order proposed by the moving party; and

(C) A proof of service indicating the parties served with the documents required herein and the date and manner of service.

(2) If no timely response and/or request for hearing is filed and if the Court has not otherwise directed that a hearing be held, the Court may grant relief without a hearing. The movant shall file with the Court, no earlier than 20 days (25 days for matters set forth in FED. R. BANKR. P. 2002(a) and 35 days for objections to claims) from the date of service of the notice, a copy of the notice, a certificate stating that no timely response or request for hearing has been filed, and a proposed order and a request that the proposed order be signed. The Court may sign the proposed order, require the moving party to prepare a new proposed order, draft and enter its own order, or schedule a hearing.

(3) If a timely request for hearing is filed or if the Court has directed that a hearing be held, the Clerk shall schedule a hearing on the motion and prepare a notice of hearing and send the notice to the moving party for service on all required parties.

(4) The procedure set forth herein shall not be used for plan confirmation hearings, disclosure statement approval hearings, or dismissal and/or conversion motion hearings.

(d) *Authorization for Chapter 13 Trustees to Use "Notice and Opportunity" Basis for Motions to Dismiss* - A dismissal motion shall be stated with particularity and filed by the chapter 13 trustee resulting from a debtor's failure to make timely payments or other cause, may be noticed by the chapter 13 trustee's office to the debtor and debtor's attorney on a "notice and opportunity" basis pursuant to FED. R. BANKR. P. 9014.

(1) *Bar Date for Response to Motion to Dismiss* - Any responsive pleading filed by the debtor or debtor's attorney to the trustee's motion to dismiss filed under subsection (a) above must be filed with the Court and served upon the chapter 13 trustee with 30 days of the date on which the trustee served the motion to dismiss.

(2) *Particularity Requirement for Response to Motion to Dismiss* - The response filed by the debtor or debtor's attorney must state with particularity the reasons why the motion to dismiss should not be granted. For example, some legitimate responses might be: the debtor has made the requisite payments; the debtor was unemployed and returned to work with a payroll order being entered; the debtor has encountered a material change in circumstances and a motion to modify the chapter 13 plan has been filed; and the debtor has refinanced his/her house and a lump sum payment will be made to pay off the plan.

(3) *Remedy if a Proper Response is Not Filed* - Should the debtor or debtor's attorney not file a proper response as set forth in subsection (1) above within 30 days of the date the trustee served a motion to dismiss, trustee may, at any time after the expiration of that 30-day period, file with the Court an affidavit of no response together with a proposed order to dismiss. The Court will enter the dismissal order provided its form is acceptable to the Court. Upon entry of the order, any hearing previously scheduled on the trustee's motion to dismiss will be canceled as moot.

(4) *Hearing Date if a Proper Response is Filed* - If a debtor or debtor's attorney files a proper response to the trustee's motion to dismiss, the Court shall hold a hearing at the date and time originally noticed to the debtor and debtor's attorney along with the motion to dismiss. Generally, the hearing date will have been scheduled for a date some 8 to 15 days from when the 30-day period specified in subsection (1) would have expired.

(e) *Scheduling* - For all other motions, when such motion is filed, the Clerk shall schedule the matter for hearing.

(f) *Responses and Briefs* - Absent good cause, a party required to or electing to file a brief or respond to a motion must file and serve its brief or response upon required parties at least 5 days prior to the scheduled hearing thereon and file a proof of service thereof.

(g) *Combined Motions Prohibited* - Every request for an order from the Court shall be filed separately except for requests for alternative relief which may be combined in one pleading.

(h) *Copies and Spacing* - Original motions, stipulations, affidavits, objections, and proposed orders shall be accompanied by one copy. Briefs and Memoranda of Law shall be double spaced and shall be accompanied by two copies.

(i) *Stay Motions* - Motions for relief from stay are also subject to the provisions of LBR 4001-1.